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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/388,831	09/01/1999	GREGORY EUGENE BORCHERS	8371-30	4488

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EXAMINER

AN, SHAWN S

ART UNIT PAPER NUMBER

2613

DATE MAILED: 02/09/2004

11

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/388,831

Applicant(s)

BORCHERS, GREGORY EUGENE

Examiner

Shawn S An

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6, 12, 14-17 and 36-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 12, 14-17 and 36-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment*

1. As per Applicant's instructions in Paper 10 as filed on 11/20/03, claims 16, 17, and 41 have been amended.

### *Response to Remarks*

2. Applicant's remarks filed on 11/20/03 have been fully considered but they are not persuasive.

The Applicant presents several arguments regarding claims 1, 3, 12, 14, 38, and 42.

However, after careful scrutiny of Yui, Ueda et al, and Atkinson's references, the Examiner must respectfully disagree, and maintain the grounds of rejection for the reasons that follow.

In response to claims 1 and 12 argument, Atkinson teaches that the invention automatically take affirmative steps to alter the screen colors presented to the user to take account of any perception deficiencies revealed by the test (col. 2, lines 42-52). In other words, Atkinson teaches color remappings that are non-modifiable by a user (automatic adjustment of screen colors) after the color vision test by the user. Therefore, the transform is non-modifiable by the user after the vision test by the user. Furthermore, Applicant's invention lets the user to simply select a preferred color remappings. Likewise, Atkinson teaches initially giving a user vision test, and then thereafter, provides a preferred color remappings corresponding to user's vision test results.

Therefore, it would have been obvious to a person of ordinary skill in the relevant art employing a real time video system for displaying color images that are adjusted from original color images as taught by Yui to incorporate the Atkinson's teaching as above so as to display settings that are optimal for color blind people.

Furthermore, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually

where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to claim 3 argument, Yui discloses series of ordered sets of original samples, wherein the adjusted color signal is associated with a series of ordered sets of samples according to a first color adjustment predefined for first type of color blindness (Fig. 2A, 2B).

In response to claims 14 and 38 arguments, Yui's invention is directed at changing hues by an user, for e.g., red-blind or color-blind persons, whom does not see well in sync with the statistically determined hues display, (col. 1, lines 26-39). Therefore, the transform in this invention inherently includes color blindness transform for such person having color blindness. Furthermore, Yui discloses selecting a first type of color blindness (Fig. 2A, S5), and characterizing the selected type of color blindness with respect to the coordinates as at least one discernible region in the color space (Figs 5A-5C). The Applicant is further reminded that since Yui's invention is directed at changing hues by an user for e.g., red-blind or color-blind persons, as discussed above, it is inherently assumed that the color space represented by the Figs. 5A-5C is for a type of color blindness with respect to the coordinates as at least one discernible region in the color space.

In response to claim 42 argument, mapping for a type of the color blindness has been discussed as immediate above. Furthermore, it is considered an inherent feature to simply repeat claim 38, since the method for generating remapping table would simply restart from the beginning of the method when a second user wishes to modify the color compensated display, thereby relating the second type of color blindness to the coordinates of reference color space to define a second discernable region.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6, 12, and 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yui (5,677,741) in view of Ueda et al (5,986,642) and Atkinson (5,589,898) as previously discussed in the Last official action as Paper # 9

5. Claims 15, 17, and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yui (5,677,741) as previously discussed in the Last official action as Paper # 9.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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7. Claims 14, 16, 38, and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Yui (5,677,741) as previously discussed in the Last official action as Paper # 9.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CAR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CAR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawn An whose telephone number (703) 305-0099 and schedule are Tuesday through Friday.



SSA

SHAWN S. AN  
PATENT EXAMINER

Primary Patent Examiner

2/8/04